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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 641

HELENE P. PIERRE as a citizen of the United States and of the State of California on her own behalf and on behalf of all other citizens, electors and voters, and riparian property owners and taxpayers of the State of California situated and located in the Proposed Los Angeles County Waterworks District #37 — Acton, California,

Petitioners,

vs.

FRANK M. JORDAN, in his official capacity as Secretary of State of California; EDMUND G. BROWN, in his official capacity as Governor of the State of California; BENJAMIN S. HITE, in his official capacity as Registrar of Voters of the County of Los Angeles, State of California; STANLEY MOSK, in his official capacity as Attorney General of the State of California; WARREN M. DORN, Chairman of the Board of Supervisors of Los Angeles County; FRANK G. BONELLI, Member of Board of Supervisors of Los Angeles County; KENNETH HAHN, Member of Board of Supervisors of Los Angeles County; ERNEST E. DEBS, Member of Board of Supervisors of Los Angeles County; BURTON W. CHACE, Member of Board of Supervisors of Los Angeles County; GORDON T. NESVIG, Clerk of Board of Supervisors of Los Angeles County; JOHN A. LAMBIE, Los Angeles County Engineer; JAMES T. ROSTRON, Division Engineer of Los Angeles County Waterworks & Utilities; KENNETH R. PUTNAM, Supervising Civil Engineer, Division Los Angeles County Waterworks & Utilities; PHILIP E. WATSON, Tax Assessor of the County of Los Angeles; and HAROLD J. OSTLY, Tax Collector of the County of Los Angeles,

Respondents.

PETITION FOR REHEARING ON ORDER DENYING PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

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Respondents.

PETITION FOR REHEARING ON ORDER DENYING PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

Helene P. Pierre, on her own behalf and on behalf of all the other petitioners in this class action, moves for leave to file this Petition for Rehearing of the order of this Court denying the petition for writ of certiorari in this case, entered on January 18, 1965.

Petitioners pray that this Court grant rehearing of its order of January 18, 1965, denying the petition for writ of certiorari, and that a writ of certiorari issue to review the judgment of the Court of Appeals for the Ninth Circuit in the above-entitled case as prayed for in the petition filed October 29, 1964.

Reasons for Granting Rehearing and Issuing The Writ

Intervening circumstances of substantial and controlling effect have taken place since the filing of Petitioners' Petition for Writ of Certiorari. Private property has been taken without due process of law.

Jurisdiction

Jurisdiction is founded, in addition to the Constitutional provisions of the Fourth and Fourteenth Amendments, upon *28 U.S.C. 1331,* and upon the Civil Rights Acts. (Petition, page 5).

Issue Decided

The complaint does not state a cause of action cognizable by federal district court under Civil Rights Acts.

Issue Here Presented

The complaint does state a cause of action founded on *28 U.S.C. Sec. 1331.* The jurisdictional defect raised

by the United States Court of Appeals on this statute has now been cured. Private property has [now] been taken.

The decision of the United States Court of Appeals for the Ninth Circuit (Petition — Appendix, page 23) held:

1. That the complaint states effective allegations to the effect that private property was being taken without due process of law. *(28 U.S.C. 1331.)*
2. That up to the time this suit was instituted it was plain that neither District No. 37, nor anyone acting in its behalf, had taken or threatened to take any private property.
3. Therefore, that that court did not [then] (June 9, 1964) need to decide the issue of jurisdiction predicated under *28 U.S.C. Sec. 1331.*

Since that decision was rendered and subsequent to the filing of Petitioners' Petition for Writ of Certiorari on October 29, 1964, petitioners have been deprived of private property without due process of law.

On December 10, 1964 petitioners were deprived of private property consisting of money for a special tax assessment at the rate of 26.18% of their total tax bills.

Petitioners were denied some or all of their fundamental rights under the due process and the equal protection clauses of the Fourteenth Amendment. These included the denial of (1) right to notice, (2) right to be heard, and (3) by gerrymandering even their right to vote on this matter which affected their fundamental rights.

In its decision the Court of Appeals takes judicial notice of these effective allegations of deprivations of petitioners' constitutional rights; but then it erroneously concluded that petitioners' *purpose* of the suit was not for the redress of the deprivations of their constitutional rights. The Court then held that since no private property had [then] been taken that it lacked jurisdiction.

Reason I, Petition page 12, sets forth important fundamental federal questions involving the constitutional rights of all persons everywhere who own riparian property in the State of California. The points made upon the construction of these statutes have not yet been but should be settled by this Court.

Through the application of these state statutes, not only were petitioners deprived of their fundamental constitutional rights; and have been deprived of their private property, but they were even denied their right to vote on the matter by the use of gerrymandering. In a recent decision involving voting, this Court held:

> "One's right to life, liberty, and *property* and *other fundamental rights* may not [even] be submitted to vote; . . . ."

Lucas, et al., v. Forty-Fourth General Assembly of the State of Colorado, et al., (June 15, 1964) 84 S. Ct. 1472.

There is no provision barring a federal court from assuming jurisdiction to inquire into alleged deprivation of federal constitutional rights. *Baker v. Carr,* (1962) 369 U.S. 186.

Petitioners have standing to attack the constitutionality of a state statute, the enforcement of which has taken their private property, whether under the guise of taxation, condemnation, or eminent domain, when the taking of such property has been done in violation of the constitutional guarantees of the Fourteenth Amendment. *Schroeder v. City of New York,* (1962) 371 U.S. 208.

Conclusion

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted and that, upon such rehearing, a writ of certiorari issue to the Court of Appeals for the Ninth Circuit.

Respectfully submitted,

HELENE P. PIERRE
Petitioners - Pro Se.

Certificate of Good Faith

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

HELENE P. PIERRE
Petitioners - Pro Se.